UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Office of the Clerk

After Opening a Case
Pro Se Petitioners in Immigration Cases
(revised December 2012)

Court Address

Mailing Address for U.S. Postal Service	*Mailing Address for Overnight Delivery (FedEx, UPS, etc.)*	*Street Address*
Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals P.O. Box 193939 San Francisco, CA 94119-3939	Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals 95 Seventh Street San Francisco, CA 94103-1526	95 Seventh Street San Francisco, CA 94103

Before you prepare your case, please read all information carefully. Keep the following points in mind:

- Your petition has been assigned a Court of Appeals case number. You must include this number on all correspondence and filings you send to this Court and to opposing counsel.
- You must keep a copy for your personal records of all documents you send to this Court.
- Your documents must be legibly typed or written. Do not use tissue paper. If the Clerk cannot read the documents when they arrive, they will not be processed.
- If you move or your mailing address changes, you must notify this Court in writing immediately. If you do not, you could miss important papers from this Court notifying you of deadlines or decisions. Missing a filing deadline may cause your case to be dismissed without further notice.

Special note concerning Electronic Case Filing

As a pro se petitioner, you are not required to file documents electronically using the Ninth Circuit's Appellate ECF (Electronic Case Files) system. However, if you are not currently incarcerated and if you have regular access to a reliable internet connection as well as a computer that meets the hardware and software requirements, you may register for Appellate ECF. You will find information about the technical requirements for electronic filing on the Court's website, www.ca9.uscourts.gov under *Electronic Filing – ECF*. You must register as an electronic filer before you will be able to file documents electronically.

If you decide to register and to file documents electronically, you are subject to different rules than outlined in this packet. These rules are contained in the Court's Circuit Rules, which are available on the Court's website www.ca9.uscourts.gov under *Rules*.

Your Petition in the Ninth Circuit – A Quick Overview

- **Case number.** You must include your case number on anything you send to the Court. With your case number, you'll also receive:
  - **Time Schedule Order**. This important order tells you when certain documents are due. If you file a motion to stay removal, due dates for briefs will be set when the motion is decided.
  - **Sample Certificate of Service**. You must include a certificate of service with each document you file with this Court in order to show that you sent a copy of the document to the opposing attorney.
  - **Informal Brief Form**. If you use this form, you are not required to comply with the technical requirements for Ninth Circuit briefs.
  - **Form 13.** Complete and mail this form in order to receive one extension of time of up to 30 days to file your brief.
- **Change of address.** You must notify the Court in writing of any change of address. 9th Cir. R. 46-3. If you choose to register and file electronically,

you must change your address via PACER at:
https://pacer.psc.uscourts.gov/psco/cgi-bin/cmecf/ea-login.pl

- **Filing fee.** You must pay your $450.00 filing fee, or ask that the fee be waived (called "proceeding in forma pauperis"). Instructions for filing a motion to proceed in forma pauperis are included in the "General Information" section of this document. If your motion to proceed in forma pauperis is denied and you do not pay the fees, your case will be dismissed.

- **Opening brief.** You must file your opening brief by the date stated on the time schedule order.

- **Reply brief.** If you want to file a reply to your opponent's brief, you must do that within 14 days of the date your opponent served you with the brief.

- **Completion of briefing.** Once all the briefs are filed, the case will be considered by a panel of three judges. Unless one or more of the judges requests that oral argument be heard, your case will be decided based on the information included in the briefs and the record. Fed. R. App. P. 34(a). If the judges decide that oral argument would be beneficial to the Court, you will receive notice that your case has been put on a hearing calendar.

- **Decision before briefing is complete.** In some cases, the judges may decide a case before the completion of briefing. 9th Cir. R. 3-6.

- **Final decision.** When the judges decide your case, you will receive a memorandum disposition or order.

General Information for Pro Se Petitioners

1. THE COURT OF APPEALS

The Court of Appeals reviews final decisions of the U.S. District Courts and certain federal agencies. In petitions for review of agency actions, the Court looks at the administrative record and the briefs of the parties to see if there are any constitutional, legal, or factual mistakes. No new evidence or testimony can be presented in this Court.

2. THE FEDERAL RULES

You must carefully follow the Federal Rules of Appellate Procedure (Fed. R. App. P.) and the Ninth Circuit Rules (9th Cir. R.). The Federal Rules and the Ninth Circuit Rules are available on the Court's website, www.ca9.uscourts.gov under *Rules.* If you would like a written copy of the Ninth Circuit Rules sent to you free of charge, please send a written request with a return mailing label to the Clerk's office.

3. PAYMENT OF FEES

The $450.00 filing fee for your petition for review is paid in this Court.

If you cannot afford to pay the fee, you may file a motion to proceed without payment of fees, called a motion to proceed *in forma pauperis.* A financial affidavit, including a statement by you swearing under penalty of perjury that you do not have enough money or other assets to pay the fee, must be included with your motion. The financial affidavit may be found at Form 4, Federal Rules of Appellate Procedure, available on the Court's website, www.ca9.uscourts.gov under *FAQs, Forms and Instructions.*

If you do not pay your filing fee or file a motion to proceed *in forma pauperis*, your case will be dismissed. 9th Cir. R. 42-1.

4. APPOINTMENT OF COUNSEL

The Court appoints an attorney (or requests the services of a volunteer attorney) in a very limited number of civil cases. To request that the Court appoint an attorney for you, you should file a motion for the appointment of counsel stating the reasons why you need an attorney and why you cannot afford an attorney. Remember to include a Certificate of Service with the motion stating that you served counsel for the opposing party with a copy of the motion.

5. BRIEFS

Your brief is the written argument of your case. You will file the first brief, called the Opening Brief. The other side is given a chance to file a brief answering your arguments in an Answering Brief. You will have an opportunity to respond to your opponent's brief in a Reply Brief.

The time schedule order tells you when the Opening Brief is due. The Court will dismiss your case if you do not file your brief when it is due. Your briefs are considered filed as of the date you mail them to the Court. Fed. R. App. P. 25(a)(2)(B). (This is not true for any other filing with the Court, unless you are incarcerated or in detention. Fed. R. App. P. 25(c).)

In general, briefs should include:

1. Your Ninth Circuit case number.
2. A statement of the facts of your case.
3. What the immigration judge and/or the Board of Immigration Appeals decided.
4. The issues in your petition.
5. The legal arguments you wish to present.
6. A statement of what you want this Court to do – reverse or modify the agency decision, or remand the case back to the agency – and why.
7. A statement telling this Court whether you are in detention or not.
8. Your signature. All briefs must be signed by each pro se petitioner. Fed. R. App. P. 32(d).
9. A Certificate of Service.

Fed. R. App. P. 28 and 32 and 9th Cir. R. 28-1, 28-2, 28-4, 32-1, 32-3 and 32-5 contain the exact requirements for the content and form of a brief.

Because you are appearing without the help of an attorney, you may file the informal brief form included in this package. Using this form means that your opening and reply briefs need not comply with the technical requirements of the Rules. 9th Cir. R. 28-1(c) and 32-5. You may add additional pages to the informal brief form, up to a total of 40 double-spaced pages. If you choose not to use the informal brief form, your briefs must meet **all** of the requirements of the federal rules, and must include a Certificate of Compliance found on the Court's website, www.ca9.uscourts.gov, under *FAQs, Forms and Instructions.* If it does not, we may return it to you for correction, which will delay the decision in your case.

File the **original and 7 copies** of your briefs with the Court. 9th Cir. R. 31-1. You must also send **2 copies** of your brief to opposing counsel.

If you choose to register and submit your brief electronically, do not send any paper copies of the brief to the Court until you are ordered by the Clerk to do so. 9th Cir. R. 31-1. You must also send **2 copies** of your brief to any exempt or un-registered opposing counsel.

6. EXTENSIONS OF TIME TO FILE A BRIEF

If you need an extension of time in which to file your brief, you may request one extension of no more than 30 days by filing Form 13 or, if you are registered for Appellate ECF, by using the "File a Streamlined Request to Extend Time to File Brief" event on or before your brief's existing due date.

If you need more than a 30-day extension, or have already been granted one or more extensions to file the brief, you must file a written motion for extension of time in which to file your brief. This motion must be filed at least seven calendar days before the due date for your brief. Your motion must meet the requirements of 9th Cir. R. 31-2.2(b).

7. FILING MOTIONS

Any motions filed while your petition is pending must clearly identify the relief you seek and the legal grounds for relief. You must file an original motion with the Court and serve one copy of the motion on each opposing counsel. 9th Cir. R. 27-1. A Certificate of Service must be attached to the original and to each copy.

If you want to file a motion for reconsideration or clarification of an order, you must do so within 45 days of the order's filing date. 9th Cir. R. 27-10.

8. MOTIONS TO STAY REMOVAL

A motion to stay removal temporarily stays the order of removal until further order of this Court. *DeLeon v. INS,* 115 F.3d 643 (9th Cir. 1997); General Order 6.4(c)(1). The motion must discuss the merits of the petition and the specific hardships imposed by removal. *Nken v. Holder*, 129 S. Ct. 1749 (2009).

A briefing schedule is established after the motion to stay removal is resolved. The filing of a motion to stay removal vacates an existing briefing schedule. General Order 6.4(c)(1).

The response to the motion to stay removal is due 12 weeks from the filing of a motion to stay. If the respondent (the government) fails to submit a response within the allotted time, the respondent waives the opportunity to oppose the motion to stay. If a response is filed, the reply is due 7 days from service of the response.

9. PETITION FOR REHEARING

If your case is decided by a memorandum disposition and you think the Court's final decision on the merits of your case was wrong, you may file a petition for rehearing in the Court **within 45 days of entry of judgment**. Fed. R. App. P. 35 & 40; 9th Cir. R. 35-1 & 40-1. If you filed an informal opening brief on the form provided with this packet, your petition for rehearing need not comply with the technical form requirements of Fed. R. App. P. 32. 9th Cir. R. 32-5 & 40-1. Do not present any new facts or legal arguments. Instead, explain how the Court may have overlooked arguments or misunderstood the facts of your case.

After the Court either denies your petition for rehearing or issues a new judgment upon rehearing in your case, you may file a petition for a writ of certiorari in the United States Supreme Court. Consult the Supreme Court's Rules before filing your petition for a writ of certiorari. Remember that you must have a legal basis to support your belief that the Court's final decision was incorrect; it is not enough to simply disagree with the outcome.

If you do not file a petition for rehearing in this Court, you may still file a petition for a writ of certiorari directly in the United States Supreme Court.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

_____ 9th Cir. Case No. _____
Petitioner,

Agency No. _____

vs.

_____
Respondent.

PETITIONER'S INFORMAL BRIEF
(attach additional sheets as necessary)

1. JURISDICTION:

- Date immigration proceedings initiated _____
- Date immigration judge's decision entered _____
- Date notice of appeal filed with Board of Immigration Appeals (BIA) _____
- Date BIA's decision entered _____
- Date petition for review filed _____

2. WHAT ARE THE FACTS OF YOUR CASE?

3. PROCEEDINGS BEFORE THE AGENCY

- What forms of relief did you request?

- What did the agency do?

4. PROCEEDINGS BEFORE THE NINTH CIRCUIT:

- What issues are you raising in this Court? What do you think the agency did wrong?

• What legal arguments support your position?

• Do you have any other cases pending in this Court? If so, give the name and docket number of each case.

• Have you filed any previous cases that have been decided by this Court? If so, give the name and docket number of each case.

_____ _____
Name Signature

_____ _____
Address Date

CERTIFICATE OF SERVICE

Case Name: _____ v. _____

9th Cir. Case No.: _____

IMPORTANT: You must send a copy of ALL documents filed with the Court and any attachments to counsel for ALL parties in this case. You must attach a copy of the certificate of service to each of the copies and the original you file with the Court. Please fill in the title of the document you are filing. Please list the names and addresses of the parties who were sent a copy of your document and the dates on which they were served. Be sure to sign the statement below.

I certify that a copy of the _____
(title of document you are filing)
and any attachments was served, either in person or by mail, on the persons listed below.

_____
Signature
Notary NOT required

Name	Address	Date Served

Form 13. Initial Streamlined Request for Extension of Time to File Brief

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

NOTE: This form is for use solely by parties who are not registered for Appellate ECF. If you are registered for Appellate ECF, do not use this form and instead log onto Appellate ECF to make your request using the event "File a Streamlined Request to Extend Time to File Brief."

NOTE: You may use this form only if you have not yet received any extension of time to file the brief. If you have already received an extension of time, any request for more time must be made in writing pursuant to Ninth Circuit Rule 31-2.2 (b).

9th Circuit Case Number(s): _____

9th Circuit Case Name(s): _____

Name of party/parties requesting extension: _____

For what type of brief are you requesting an extension?

☐	Opening brief	☐	Opening brief on cross-appeal
☐	Answering brief	☐	Answering/opening brief on cross-appeal
☐	Reply brief	☐	Reply/answering brief on cross-appeal
		☐	Cross-appeal reply brief

What is your current due date? _____

You may request a new due date **up to 30 days** from your current due date.

What is your new requested due date? _____

Print Name: _____

Signature: _____

Date: _____

Mail this form on or before your brief's current due date to the Court at:

Office of the Clerk
U.S. Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

The Clerk will inform you of the new briefing schedule